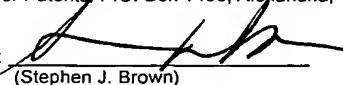




I hereby certify that this paper (along with any paper referred to as being attached enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: July 28, 2008

Signature:   
(Stephen J. Brown)

Docket No.: REGIM 3.3-039  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Denizot et al.

Application No.: 10/511,048

Group Art Unit: 1612

Filed: October 12, 2004

Examiner: S. Maewall

For: POLYPHOSPHONATE DERIVATIVES FOR  
TOOTHPASTE COMPOSITIONS

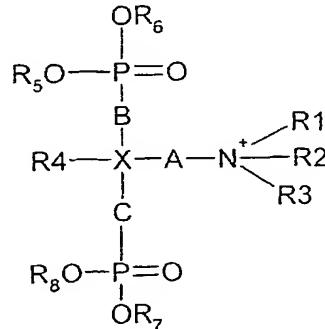
RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Office Action mailed June 26, 2008, setting forth a Restriction Requirement in the above-identified application. In the Office Action, the Examiner required restriction to one of the following inventions under 35 U.S.C. §§ 121 and 372:

I. Claims 8-13, drawn to an oral hygiene composition comprising a polyphosphonate of Formula I:



(I)

wherein:

R1, R2, R3, R5, R6, R7, R8 represent an atom of hydrogen or an alkyl or aryl group in C1 - C6, independently of each other;

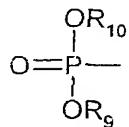
X is a carbon C atom or a nitrogen N atom;

A represents an alkyl or aryl group in C1 - C6, a carbonyl group or a hydrophilic group, B and C represent a chemical bond, an alkyl or aryl group in C1 - C6, a carbonyl group, or a hydrophilic group; and

R4 represents:

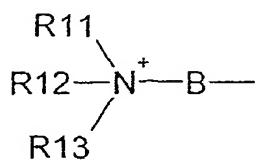
a hydrogen atom, an OH group, an alkyl or an aryl group in C1 - C6, or a carboxylic acid in C1 - C6, a free doublet (if X is a nitrogen N);

a phosphonate with formula:



in which R9, R10 represent a hydrogen atom, or an alkyl or an aryl group in C1 - C6, independently of each other;

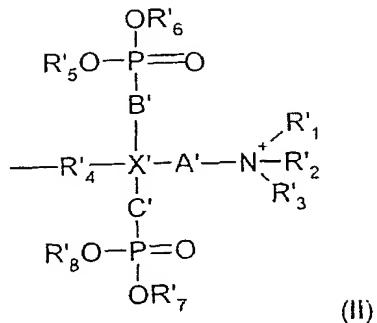
a quaternary ammonium group with formula:



in which R11, R12, R13 represent a hydrogen atom, or an alkyl or an aryl group in C1 - C6 independently of each other, and B represents a chemical bond, an alkyl group in C1 - C6, a carbonyl group or a hydrophilic group;

a hydrophilic group;

a polyphosphonate group with the following general formula II:



wherein:

- R'1, R'2, R'3, R'5, R'6, R'7, R'8 represent an atom of hydrogen, or an alkyl or an aryl group in C1 - C6, independently of each other;
- X' is a C atom or an N atom;
- A', B' and C' represent a chemical bond, an alkyl or an aryl group in C1 - C6, a carbonyl group, or a hydrophilic group;
- and R'4 represents an alkyl or an aryl group in C1 - C6, or a carboxylic acid in C1 - C6;
- a mixture of such polyphosphonate compounds; or
- a pharmaceutically acceptable salts, thereof; and

II. Claims 14, 2-7, and 15, drawn to a method of inhibiting the appearance and development of dental plaque.

In response, Applicants hereby elect the invention of Group I, corresponding to claims 8-13, without traverse. Applicants reserve the right to file a divisional application corresponding to the non-elected claims.

The Communication also requires Applicants to elect a single compound with specific substituent for prosecution.

In response, Applicants hereby elect 6-

trimethylammoniohexyl-1,1-bisphosphonic acid for prosecution.

The election of species is made with traverse. The two criteria for a proper requirement for election of species are that the species must be independent or distinct and that there would not be a serious burden on the Examiner if election were not required. The bare allegations in pages 4-6 of the Communication that the "composition claimed contains polyphosphonate composition [in which the] substituents vary structure extensively and when taken as a whole result in vastly different compounds," do not satisfy either of these criteria.

No reasons or examples are set forth to support the determination that the claimed compositions, would constitute independent or distinct species. In addition, there is no explanation as to how the searches for these embodiments would be unduly burdensome on the Examiner. Further, as shown in the specification, the Applicants have demonstrated that several compounds of Formula I comprising different identified substituents are effective in providing protection against plaque surface bonding, e.g., TMADP chloride and 6-trimethylammoniohexyl-1,1-bisphosphonic acid. (Pages 14-16.) Reconsideration and withdrawal of the elections of species requirement are respectfully requested.

In the event any fee is due in connection with the present response, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: July 28, 2008

Respectfully submitted,

By   
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